

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 13555 of 2021

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Rajkumar Prasad S/o Late Raghu Saw R/o Gewal Bigha, Akhara, P.O.- Chand
Chaura, P.S.- Rampur Gaya, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply,
Government of Bihar, Patna.
2. The Principal Secretary, Food and Civil Supply, Government of Bihar,
Patna.
3. The District Magistrate, Gaya.
4. The District Supply Officer, Gaya.
5. The Sub-Divisional Officer, Sadar, Gaya.
6. The Marketing Officer, Sadar, Gaya.
7. The Block Supply Officer, Sadar Gaya.
8. Prabhat Kumar, posted as Marketing Officer, Sadar, Gaya.

... .. Respondent/s

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Appearance:

For the Petitioner/s : Mr. Alok Ranjan, Advocate
For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 23-09-2021 The instant case has been taken up for consideration

through the mode of Video conferencing in view of the

prevailing situation on account of COVID 19 Pandemic,

requiring social distancing.

The present writ petition has been filed seeking

quashing of the order dated 30.06.2021 passed by the Sub-



Divisional Officer, Sadar, Gaya, whereby and whereunder the PDS license of the petitioner bearing License No. 198 of 2016 has been cancelled.

The short point raised by the learned counsel for the petitioner is that an inspection was held on 29.05.2021, whereafter a show cause notice dated 04.06.2021 was issued to the petitioner, to which the petitioner had submitted a detailed reply dated 14.06.2021, however, a bare perusal of the impugned order dated 30.06.2021 would show that a fresh enquiry was conducted on 26.06.2021 and on the basis of the same the impugned order dated 30.06.2021 has been passed, without either supplying a copy of the said enquiry report dated 26.06.2021 to the petitioner or granting him any opportunity to put forth his defence qua the said enquiry report dated 26.06.2021 and moreover, the impugned order dated 30.06.2021 is a perfunctory order which does not state any reason in support of the conclusion reached at by the Sub-Divisional Officer, Sadar, Gaya, hence the same stands vitiated in the eyes of law. Reference in this connection has been made to a judgment rendered by the Hon'ble Apex Court in the case of *M/s Kranti Associates (P) Ltd. & Anr. vs. Masood Ahmed Khan & Ors.*, reported in (2010) 9 SCC 496, paragraph nos. 15, 24, 25, 47



and 48 whereof are reproduced herein below:-

“15. This Court always opined that the face of an order passed by a quasi judicial authority or even an administrative authority affecting the rights of parties, must speak. It must not be like the “inscrutable face of a sphinx”.

24. In Siemens Engg. and Mfg. Co. of India Ltd. v. Union of India¹¹ this Court held that it is far too well settled that an authority in making an order in exercise of its quasi-judicial function, must record reasons in support of the order it makes. The learned Judges emphatically said that every quasi-judicial order must be supported by reasons. The rule requiring reasons in support of a quasi-judicial order is, this Court held, as basic as following the principles of natural justice. And the rule must be observed in its proper spirit. A mere pretence of compliance would not satisfy the requirement of law (see SCC p. 986, para 6 : AIR p. 1789, para 6).

25. In Maneka Gandhi v. Union of India¹² which is a decision of great jurisprudential significance in our constitutional law, Beg, C.J. in a concurring but different opinion held that an order impounding a passport is a quasi-judicial decision (SCC p. 311, para 34 : AIR p. 612, para 34). The learned Chief Justice also held, when an administrative action involving any deprivation of or restriction on fundamental rights is taken, the authorities must see that justice is not only done but manifestly appears to be done as well. This principle would obviously demand disclosure of reasons for the decision.

47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.



(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasijudicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.



(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor³².)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain³³ EHRR, at 562 para 29 and Anya v. University of Oxford³⁴, wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, “adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is



virtually a part of “due process”.

48. For the reasons aforesaid, we set aside the order of the National Consumer Disputes Redressal Commission and remand the matter to the said forum for deciding the matter by passing a reasoned order in the light of the observations made above. Since some time has elapsed, this Court requests the forum to decide the matter as early as possible, preferably within a period of six weeks from the date of service of this order upon it.”

The learned counsel for the respondent-State Shri Upendra Pratap Singh, AC to Standing Counsel-4 has not disputed the position as is existing in law.

Having regard to the facts and circumstances of the case and having heard the learned counsel for the parties, this Court finds that the petitioner had submitted his show cause reply on 14.06.2021, whereafter a fresh enquiry was conducted on 26.06.2021, leading to passing of the impugned order dated 30.06.2021, however, a copy of the said enquiry report dated 26.06.2021 was neither supplied to the petitioner nor any response to the same was sought for from the petitioner, hence the same has resulted in denial of reasonable opportunity to the petitioner to submit his wholesome defence, resulting in violation of the principles of natural justice, thus the impugned order dated 30.06.2021 stands vitiated in the eyes of law. This



Court further finds that the impugned order dated 30.06.2021 passed by the Sub-Divisional Officer, Sadar, Gaya is an unreasoned and a perfunctory order and moreover, no cogent, clear and succinct reasons have been furnished in support of the impugned order dated 30.06.2021, which is an indispensable component of a decision making process, hence, the impugned order dated 30.06.2021 stands vitiated in the eyes of law, on this ground as well, thus is quashed, however, the matter is remanded back to the Sub-Divisional Officer, Sadar, Gaya for passing orders afresh, in accordance with law.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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